

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
BILLINGS DIV.

2006 OCT 26 AM 11 50

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CLIFFORD G. BIRDINGROUND,

Defendant - Appellant.

No. 05-30430

D.C. No. GR-02-00049-RFC

DEPUTY CLERK

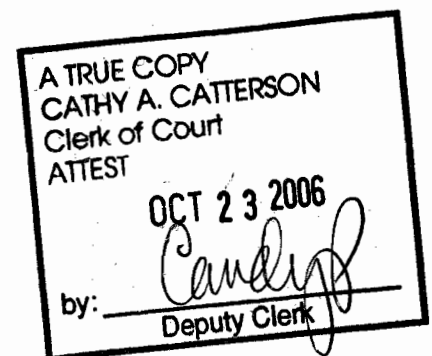
JUDGMENT

Appeal from the United States District Court for the District of Montana
(Billings).

This cause came on to be heard on the Transcript of the Record from the
United States District Court for the District of Montana (Billings) and was duly
submitted.

On consideration whereof, it is now here ordered and adjudged by this
Court, that the judgment of the said District Court in this cause be, and hereby is
REMANDED.

Filed and entered 09/29/06



NOT FOR PUBLICATION

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SEP 29 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

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Defendant - Appellant.

No. 05-30430

D.C. No. CR-02-00049-RFC

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, District Judge, Presiding

Argued and Submitted August 16, 2006**
Seattle, Washington

Before: PREGERSON, NOONAN, and CALLAHAN, Circuit Judges.

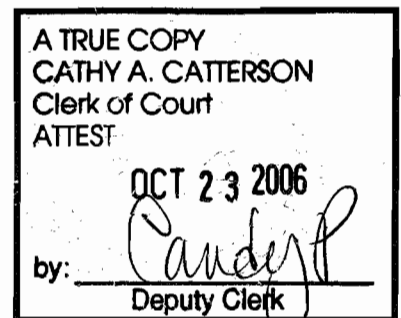
The district court did not solicit the views of counsel before deciding whether to re-sentence Appellant Clifford G. BirdinGround under *United States v. Ameline*, 409 F.3d 1073, 1085 (9th Cir. 2005). This mistake requires us to re-

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

remand the case for compliance with *Ameline*. See *United States v. Montgomery*,
--- F.3d ----, 2006 WL 2473448, at *5 (9th Cir. Aug. 29, 2006).

REMANDED.



INTERNAL USE ONLY: Proceedings include all events.
05-30430 USA v. Birdinground

UNITED STATES OF AMERICA
Plaintiff - Appellee

Carl E. Rostad, Esq.
FAX 406/453-9973
406/761-7715
5th Fl.
[COR LD NTC aus]
USGF - OFFICE OF THE U.S.
ATTORNEY
P.O. Box 3447
119 First Ave., N
Great Falls, MT 59401-3447

v.

CLIFFORD G. BIRDINGROUND
Defendant - Appellant

Paul G. Matt
406/248-8844
[COR LD NTC ret]
MATT LAW OFFICE
P.O. Box 5
Billings, MT 59101

Penelope S. Strong, Esq.
FAX 406/259-1609
406/259-3367
[COR LD NTC ret]
STRONG LAW OFFICE
115 Clark Ave.
Billings, MT 54101